

**WILLIAMSBURG
BOARD OF ZONING APPEALS
MINUTES**

April 4, 2006

The regular meeting of the Williamsburg Board of Zoning Appeals was held on Tuesday, April 4, 2006 at 4:00 p.m. in the Williamsburg Municipal Building, 401 Lafayette Street.

CALL TO ORDER and ATTENDANCE

Chairman White called the meeting to order. Present in addition to Mrs. White were Board members Carr, Goddin, Knudson and Lamson. Staff members present were Zoning Administrator Murphy and Secretary Scott.

OPEN FORUM

No one spoke at the open forum.

PUBLIC HEARINGS

BZA #06-004: Request of Robert and Lori Brown for a special exception from Section 21-604 of the Zoning Ordinance to construct an accessory apartment for elderly parents. The applicants are also requesting two variances from Section 21-604(9) of the Zoning Ordinance: (1) to allow a 1,280 square foot accessory apartment instead of the maximum of 800 square feet allowed by the ordinance; and (2) to allow an accessory apartment in a basement which is prohibited by the ordinance. The property is located at 8 Canterbury Lane, Williamsburg Tax Map Number 523-03-00-003* and is zoned Single Family Dwelling District RS-1. Approved with Conditions

Chairman White introduced the case for public hearing stating that all five members of the Board have visited the site. Mrs. White asked the applicant to comment on his request.

Present at the meeting were applicant/owner Robert Brown and Ron Buhl from Case Design/Remodeling. Mr. Brown said he bought the lot in November of 2005 with the intention of creating an apartment for his wife's parents who are in their 80's. Mr. Brown's in-laws had only one request; that they be able to fit all their furniture into their new living quarters. When beginning to make plans for the apartment, the prohibition of an accessory apartment in a basement caught the Browns off guard. Mr. Brown stated that when the parents have passed on the space will be converted back to living area for the family; they have no desire to rent the basement.

Mr. Buhl said the space required for the parent's furniture created the floor plan. He noted the need for an adequate waterproofing system for the basement apartment, a separate heating and air conditioning system and probably a chair lift on the stairs.

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Board members discussed:

- Is the stairway wide enough for a chair lift? (Goddin) Yes, Case has found an appropriate lift.
- Mr. Goddin expressed a concern regarding the safety of the elderly parents.
- Standard residential code dictates that windows must be large enough for egress. (Knudson)
- Could homeowners live in the basement by right if there wasn't a kitchen involved? (White) Mrs. Murphy responded they could as long as they met pertinent building codes.
- What is the hardship demonstrated in this request? (White) Mr. Brown said he didn't know what he'd do with his in-laws if the request is denied. He reiterated that they bought the house for the purpose of having separate living quarters for his in-laws.
- Mrs. White asked if the applicant would be willing to file an annual report confirming that the special use continues, and to remove the apartment elements once the use has terminated? Mr. Brown agreed.
- Mr. Lamson noted that the requested apartment, although large at 1280 square feet, is still within the ordinance requirement that it not exceed 25% of the existing floor area of the main building.
- Board members discussed why the ordinance prohibits apartments in basements as well as on the second floor; is it because of fire safety? Mr. Lamson stated that in the rental business, over time, such a set up might become two units, which would be prohibited. Mrs. Murphy suggested that the prohibition on the second floor may be due to building code requirements on floor joist load. Mr. Case confirmed that a joist upgrade would be necessary if a second floor were to be an apartment rather than an attic space.

Chairman White closed the public hearing and called for discussion.

Mrs. Knudson moved that the request for a special exception from Section 21-604 of the Zoning Ordinance to construct an accessory apartment for elderly parents be approved and that the two variances from Section 21-604(9) of the Zoning Ordinance: (1) to allow a 1,280 square foot accessory apartment instead of the maximum of 800 square feet allowed by the ordinance; and (2) to allow an accessory apartment in a basement which is prohibited by the ordinance, also be approved. Mrs. Knudson said some hardship has been demonstrated, the exterior of the dwelling will not be changed, the applicant has consented to remove the apartment elements once the use is no longer required by the in-laws, it will be a nice upgrade to the neighborhood once converted to living space, and it is appropriate.

Mr. Lamson seconded the motion.

Mr. Carr reiterated that Mr. Brown had been caught unaware of this prohibition and having the use restricted by the approval running with the title would control the use. Mrs. Murphy confirmed that Article IV, Section 21-604 of the Zoning Ordinance, number ten covers this condition.

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Mr. Carr stated that if the applicant sells the property, the new purchaser would assume he could have the kitchen in the basement unless it is otherwise stipulated. He asked for an amendment to the motion assuring this stipulation.

Mrs. Knudson and Mr. Lamson agreed to the amendment. Mrs. Knudson's amended motion which was seconded by Mr. Lamson states that approval is granted with the condition that the special exception meet the regulations contained in Section 21-604 of the Zoning Ordinance except for the two variances granted on size and the apartment being contained in the basement and that the special exception shall run with the title to the property. The special exception for the accessory apartment is to be granted for use by the parents of Lori Brown only.

Mr. Goddin said he still has some concerns regarding this Board's authority to grant variances under this section of the ordinance. Mrs. White assured Mr. Goddin that the Board did have this authority. Mr. Goddin added that he is sympathetic, but not sure a hardship is sufficiently demonstrated, as well as the safety factor still being a concern. He said he wishes a fire marshall's inspection was part of the process.

Mrs. Murphy assured the Board that the Code Compliance Division of the Planning Department does all the appropriate inspections; adequate egress, smoke detectors, width of doors and walls, etc.

Recorded vote on the motion:

Aye: Carr, White, Knudson, Goddin, Lamson
No: None
Absent: None

OLD BUSINESS – None

NEW BUSINESS

Minutes for the February 7, 2006 Meeting

After changes were made to the minutes, Mrs. Knudson moved that they be approved as amended. Mr. Lamson seconded the motion which carried by a vote of 5-0.

Recorded vote on the motion:

Aye: Carr, White, Knudson, Goddin, Lamson
No: None
Absent: None

OTHER

May Meeting

Mrs. Murphy said there will be a meeting in May. Mr. Lamson said he will not be in attendance.

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There being no further business the meeting adjourned at 5:00 p.m.

Respectfully submitted,

Elizabeth L. White, Chairman
Board of Zoning Appeals